

Notice of Allowability

Application No.

09/250,056

Examiner

Susan Ungar

Applicant(s)

MARKS ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to Amendment filed September 16, 2005.
2. ☐ The allowed claim(s) is/are 1, 3-5, 14-15, 34-40, 43-44, 53-67, now renumbered 1-30, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

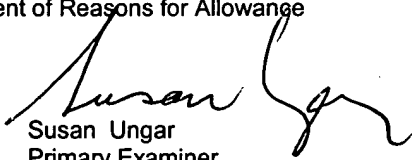
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 12/27/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


Susan Ungar
Primary Examiner
Art Unit: 1642

1. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.
2. The Amendment filed September 16, 2005 in response to the Office Action of June 21, 2005 is acknowledged and has been entered. Previously pending claims 1, 4, 5, 11-13, 34-39, 40 were amended, claims 6-10, 41-42 were canceled. Claims 1, 3-5, 11-15, 34-40, 43-44, 53-67 are currently under prosecution.
3. The application has been amended as follows:

In the claims:

Claim 67 was amended as follows: after "single chain antibody that binds to" the phrase "a c-ErbB2 receptor, wherein the binding of said antibody to said receptor is reduced in the presence of ~~b~~F5(SEQ ID NO:1) or C1(SEQ ID NO:2)" was deleted and the phrase --the c-erbB2 receptor, wherein the binding of said antibody to the c-erbB2 receptor is competitively inhibited by F5(SEQ ID NO:1) or C1(SEQ ID NO:2) --

Claims 11-13 were canceled.

4. It is noted that Applicant's response filed September 16, 2005 placed the application in condition for allowance based on the record at that time. The

Examiners Amendment is made in lieu of reopening prosecution in order to remedy informalities which were brought to Applicant's attention for the first time in the telephone Interview of February 23, 2005. Accordingly, no further extension of time is required to make the Examiner's Amendment which places the Application fully in condition for allowance.

5. It is further noted that support for the limitation drawn to competitive inhibition of binding of F5(SEQ ID NO:1) or C1(SEQ ID NO:2) can be found in the specification as originally filed at page 35, (lines 1-14).

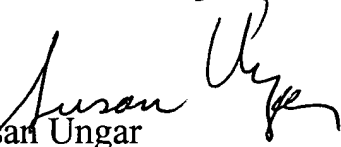
6. Authorization for this Examiner's Amendment was given in a telephone interview with Angela Horne on February 23, 2006.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.


Susan Ungar
Primary Patent Examiner
March 20, 2006